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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047757
Party	Plaintiff Karen B. Donovan
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Submission	Testimony For Plaintiff
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Signature	/David H.E. Bursik, Esq./
Date	04/20/2008
Attachments	Transcript of Courtney L Bishop Deposition.pdf (55 pages)(169087 bytes)

1 COURTNEY L. BISHOP,
2 having been duly sworn to tell the truth, the whole
3 truth, and nothing but the truth relating to said
4 matter, was examined and testified as follows:

5

6 DIRECT EXAMINATION,

7 QUESTIONS BY MR. DAVID H.E. BURSİK:

8 Q Good morning. Is it okay if I refer to you as
9 Courtney?

10 A Yes.

11 Q As you know, I'm Dave Bursik, and I'm here today
12 to ask you some questions relating to a
13 proceeding pending in Washington at the
14 Trademark Trials and Appeal Board concerning
15 some trademarks. I represent Karen Donovan, and
16 your attorney, Mr. Browning, seated to the right
17 of you is also here on your behalf.

18 I'll be asking you questions verbally and
19 ask you to give all your answers verbally so the
20 court reporter here, Janine, can take down my
21 questions and your answers. If at any time I
22 ask a question, if Cliff has any objection,
23 he'll say he has a problem. Hold up on your
24 answer. He and I will discuss our issue, and
25 then he'll advise you whether or not you should

1 continue to answer or not answer under the
2 circumstances.

3 If you don't understand a question I ask,
4 just ask me to explain it or clarify it.
5 Otherwise I'll presume you understand the
6 question and you're responsive to it. If you
7 need a break at any time, just let me know.

8 Have you ever been deposed before?

9 A No.

10 Q Well, then, lucky you, it's a new experience.

11 How old are you, Courtney?

12 A I'm 41.

13 Q Where do you live?

14 A My residence is 10377 Alice Court in Fishers,
15 Indiana 46038.

16 Q Are you presently employed? Do you have a job?

17 A Yes. I am presently employed, I guess
18 technically self-employed.

19 Q By a company or as a proprietor on your own
20 behalf?

21 A Proprietor on my own behalf.

22 Q What's the nature of your self-employment, what
23 do you do?

24 A Two things. Most importantly, I am an owner in
25 Major Taylor Sports Marketing and Entertainment,

1 and I am also an owner in Pathway Productions.

2 Q The first one you said is Major Taylor Sports
3 Marketing and Entertainment?

4 A Yes.

5 Q Is that some kind of a legal entity or is it
6 formed like as a corporation or a partnership or
7 is it just like a business name you use?

8 A No, it is an LLC.

9 Q Are you a member of that LLC?

10 A Yes.

11 Q Are there other members of the LLC?

12 A Yes.

13 Q Who are the other members of that LLC?

14 A William G. Mays.

15 Q If you could, whenever you think there's
16 something Janine might not know how to spell,
17 just go ahead and spell it for her, that would
18 be helpful.

19 A M-A-Y-S, Mays.

20 Q Any other members besides you and William?

21 A No.

22 Q Does Major Taylor Sports Marketing and
23 Entertainment have any business offices or are
24 its offices out of your home?

25 A We don't have business offices as of yet.

1 Q When was Major Taylor Sports Marketing and
2 Entertainment set up, formed?

3 A 2006.

4 Q What's the nature of the activities of Major
5 Taylor Sports Marketing and Entertainment?

6 A We are a sports marketing company that -- right
7 now we are in the process of exploring
8 opportunities as they pertain to Major Taylor.

9 Q So far has Major Taylor Sports Marketing and
10 Entertainment generated any revenue or earned
11 any income?

12 A No.

13 Q You also mentioned --

14 A Well, actually, I guess that would depend on --
15 let's put it this way: We have not received any
16 payments yet.

17 Q Oh, I see. You may have billed some, but no
18 payments yet?

19 A Right.

20 Q So far to date, what kind of billings has it
21 sent out, for what kind of activities or
22 services or products or things like that has it
23 billed for?

24 A Well, we -- or I should say I have a signed
25 contract with Nike regarding the Major Taylor

1 trademark. So we are -- in addition to that, we
2 are exploring other areas of opportunity that
3 pertain to that Major Taylor trademark.

4 Q Has the LLC sent any bills to Nike or for some
5 reason it's expecting some payment from Nike to
6 the LLC?

7 A To the LLC, no. To me, as at the time I was the
8 individual that signed the contract, yes, I
9 would be expecting payment.

10 Q Now, you mentioned earlier that the LLC had
11 billed somebody but did not get any payment yet.
12 Were you referring to this billing between you
13 and Nike or someone else?

14 A I have not billed anyone.

15 Q For the LLC?

16 A I don't believe I said I billed anyone. What I
17 have said was through my contract, I believe
18 that I have earned revenue but I have yet to be
19 paid.

20 Q Got it, understood.

21 The other company you mentioned besides
22 Major Taylor Sports Marketing and Entertainment,
23 there's a second entity you mentioned.

24 A That would be Pathway Productions.

25 Q Is that an entity, a LLC, a partnership, a

- 1 corporation?
- 2 A That is a corporation.
- 3 Q Are you a shareholder?
- 4 A I am.
- 5 Q Is anybody else a shareholder?
- 6 A Yes.
- 7 Q Who?
- 8 A Michael Husain, H-U-S-A-I-N, and William G.
9 Mays, M-A-Y-S.
- 10 Q Are you a majority shareholder?
- 11 A I am a minority shareholder.
- 12 Q What is the business activity of Pathway
13 Productions?
- 14 A We are a TV production and editing company that
15 also does what is referred to as new media work,
16 websites, in-house corporate video, training
17 videos and electronic media.
- 18 Q Has Pathway Productions done any business in
19 conjunction with or in connection with Major
20 Taylor trademarks or Major Taylor's name?
- 21 A Major Taylor is a client of Pathway Productions.
- 22 Q And when you say "Major Taylor," are you
23 referring to the LLC?
- 24 A Yes.
- 25 Q With respect to the Major Taylor, LLC, that you

1 referred to before, are you a majority owner or
2 a minority owner or equal?

3 A Equal, actually.

4 Q Apart from Pathways and the LLC, are there any
5 other business entities of which you're
6 presently a sole or a part owner?

7 A I'm a sole owner of Woodland Mortgage Group.

8 Q Does the business of Woodland Mortgage Group
9 have anything to do with either the trademark --
10 any Major Taylor trademark or any Major Taylor
11 activity?

12 A No.

13 Q In addition to Woodland, is there any other
14 business entity in which you are a whole or a
15 sole or a part owner?

16 A No. I'm too busy to think about that.

17 Q That's a good sign.

18 Apart from these entities you've identified
19 previously, are you an employee of any other
20 entity?

21 A No.

22 Q Have you lived your entire life in the state of
23 Indiana?

24 A No.

25 Q Where were you born?

1 A Aylesbury, A-Y-L-E-S-B-U-R-Y, in
2 Buckinghamshire, Buckingham S-H-I-R-E County
3 north of London, England.

4 Q For what period of your life did you live in
5 Aylesbury?

6 A I was born there and through age four or so.

7 Q Where did you move at age four?

8 A To Albany, New York.

9 Q How long did you live there?

10 A Until June 1985.

11 Q What year were you born?

12 A 1966.

13 Q So you were, I guess, 19 years old?

14 A 18, 18.

15 Q So at 18 you moved from Albany to where?

16 A Well, went to school here in Indiana.

17 Q University of Indiana?

18 A Indiana University --

19 Q Sorry.

20 A -- if you want to get out in one piece.

21 Q There's two schools, or they always like to
22 refer to it like that?

23 A Indiana University. I went to school at Indiana
24 University and graduated from Indiana University
25 in 1990.

1 Q You may have mentioned in passing, what year
2 were you born?

3 A 1966.

4 Q So you graduated Indiana University in what
5 year?

6 A 1990, but I did go back to Indiana University
7 for one year, 1991 through '92 academic year.

8 Q Now, following -- during the years while you
9 attended school at Indiana University, did you
10 live in Indiana all year round, even during
11 non- --

12 A The summer of 1986 I went back to New York to
13 work. The summer of 1988 I was in Chicago for
14 an internship. But all other times I was
15 basically in Bloomington, Indiana, throughout
16 that period.

17 Q Following your graduation from Indiana
18 University in 1990, from that point to the
19 present date, have you been a resident of
20 Indiana?

21 A Yes.

22 Q Do you bike ride? Are you a bicyclist?

23 A I have cycled for probably a one-year period,
24 and on and off I cycle just for recreation.

25 Q Have you ever cycled at the Major Taylor

- 1 Velodrome here in Indianapolis?
- 2 A Yes, once.
- 3 Q One was that, what year was that?
- 4 A Just this past year, actually.
- 5 Q When was the first time you ever visited the
- 6 Major Taylor Velodrome?
- 7 A First time I visited the Major Taylor Velodrome?
- 8 Would have been the summer of 1990.
- 9 Q What was the occasion of your visiting?
- 10 A I was invited there to watch racing.
- 11 Q By a friend or some association or something?
- 12 A By a friend, Nelson Vails.
- 13 Q V-A-Y-L-E-S?
- 14 A V-A-I-L-S.
- 15 Q When did you first hear of the name Major
- 16 Taylor?
- 17 A Summer 19- -- actually spring 1991, thereabouts.
- 18 Q What were the circumstances of your hearing of
- 19 the name?
- 20 A I was looking to form an African-American bike
- 21 racing team, and I was looking for a name for
- 22 the team. And someone suggested the name Major
- 23 Taylor to me.
- 24 Q Do you remember the name of the person who
- 25 suggested it?

- 1 A Ron Carter.
- 2 Q Who is Ron Carter?
- 3 A Just a friend.
- 4 Q Was there some reason you were looking to form
5 an African-American bike racing team at that
6 time?
- 7 A Yes. Because at that time in 1990, biggest
8 cycling event in the state of Indiana for some
9 40 years had been the Little 500 bicycle race.
10 And at that time, there had never been an
11 African-American team in that event. And for
12 the benefit of the African-American community, I
13 thought it would be a good thing to field a
14 team.
- 15 Q So in -- what was the first year in which you
16 actually fielded a team?
- 17 A 1992.
- 18 Q Did you name that team Major Taylor?
- 19 A We named that team IMO Major Taylor. IMO stands
20 for "in memory of."
- 21 Q After your friend, Mr. Carter, suggested the
22 name Major Taylor to you, did you do any
23 research to find out about Major Taylor?
- 24 A Sure.
- 25 Q What did you do?

1 A I read -- I read a book, which at the time
2 really was the only publication I could find on
3 Major Taylor, that was written by Andrew
4 Ritchie.

5 Q And Andrew is just like it's normally spelled?

6 A R-I-T-C-H-I-E, I believe is the spelling of
7 that.

8 Q In addition to reading the book about Major
9 Taylor written by Andrew Ritchie, did you do
10 anything else to research Major Taylor?

11 A This really pre-internet, so that was about it.
12 Did some reading, but there wasn't a lot written
13 on Major Taylor at the time. So just my Ritchie
14 research.

15 Q Do you remember what the title was of the book
16 by Andrew Ritchie?

17 A I believe it was the Fastest Cyclist in the
18 World.

19 MR. BURSİK: You have a copy of this, too.

20 Q I just happened to print out a page from a
21 website --

22 MR. BURSİK: Let's mark this as P1.

23 (Plaintiff's Deposition Exhibit No. 1
24 marked for identification.)

25 Q I'm going to show you a document that's been

1 marked P1 for identification that lists some
2 books and magazine articles. I see that that's
3 an autobiography listed, The Fastest Bicycle
4 Racer in the World, written by Major Taylor
5 himself. Do you recall ever reading that one?

6 A Yes, I've read that.

7 Q Did you do that probably when you were doing
8 your research into Major Taylor?

9 A No, I didn't read that book until probably 2000.
10 But the book that I'm referring to that I read
11 in the 1990s early was The Extraordinary Career
12 of a Champion Bicycle Racer by Andrew Ritchie.

13 Q This book by Andrew Ritchie, did you read that
14 before you set up this team to get information
15 about Major Taylor, to learn about him?

16 A Yeah.

17 Q Tell me what you did. How did you go about
18 forming this team? What steps did you take --

19 A In 1990?

20 Q Yes. That was the first time, I think, that you
21 started it.

22 A Yes -- well, 1990 -- let me get the year.

23 Q I think you mentioned 1990 there was an event,
24 but maybe '92 was the first time you submitted a
25 team.

- 1 A So really '91 was when we kind of came up with
2 the name, and I had done some reading and
3 research through the Andrew Ritchie book.
- 4 Q Did you tell your participants about him?
- 5 A Sure, sure. But basically the way we came upon
6 forming the team was I found the first three
7 African-American students at Indiana University
8 that thought it was an idea that had some merit,
9 and I was the fourth member of that team.
- 10 Q Oh, so you actually rode, then, with them?
- 11 A Yes.
- 12 Q Did you yourself, then, participate in the 1992
13 Little 500?
- 14 A Little 500, uh-hum.
- 15 Q When you went to -- you mentioned earlier that
16 you had visited the Major Taylor Velodrome
17 sometime in 1990. Did you learn about that from
18 reading the book or did someone else mention
19 that to you?
- 20 A You know what, to be honest with you, I don't
21 even know that I made the connection between the
22 name of the velodrome and Major Taylor at the
23 time. You know, I can't even say specifically
24 whether or not I even knew the name of the
25 velodrome when I went out there. I was just

1 there to see a bike race.

2 Q Now, when you formed your team in 1991 --

3 A '91, uh-hum.

4 Q -- apart from -- you called yourself, as you

5 mentioned, IMO --

6 A Major Taylor.

7 Q -- Major Taylor, and you entered the race. Did

8 you do anything else -- or when was the next

9 time you did anything else beyond just forming

10 the team and entering the race using the name

11 Major Taylor?

12 A I don't understand that question.

13 Q As I understand it, the first use by you of the

14 Major Taylor name was in forming this team, you

15 used it as part of the name?

16 A Right.

17 Q Apart from participating in the race and giving

18 the team that name, did you do anything else at

19 that time to use the Major Taylor name?

20 A Sure.

21 Q What did you do?

22 A We sold T-shirts, we looked for sponsors. We

23 obtained a sponsor, actually, at the time for

24 this team. Sponsors were -- it was a sporting

25 good store called AT Sports.

- 1 Q Is it one sponsor or more than one sponsor?
- 2 A One sponsor, AT Sports. The owners of AT Sports
3 are Anthony Thompson who was a former NFL
4 running back.
- 5 Q T-H-O-M-P-S-O-N?
- 6 A Uh-hum, from Indiana University. And
7 Dr. Grossman who is actually the father of Rex
8 Grossman, the quarterback for the Chicago Bears.
- 9 Q He was also part of AT Sports?
- 10 A Right. Prominent eye surgeon.
- 11 Q When you were deciding to name the bicycle
12 racing team IMO Major Taylor, did you ask
13 anybody's permission to use the name as part of
14 the bicycle team name?
- 15 A No, we didn't ask -- didn't ask permission. The
16 only person I knew of at the time that was a
17 descendant of Major Taylor's was -- his daughter
18 Sydney.
- 19 Q Sydney Brown?
- 20 A Sydney Brown.
- 21 Q Did you, at the time of forming the bicycle
22 team, have any contact with Sydney Brown about
23 using the name?
- 24 A No. I had never spoken with or corresponded
25 with Sydney Brown.

- 1 Q Ever, to the present?
- 2 A Ever.
- 3 Q How did you learn of the existence of Major
4 Taylor's daughter, Sydney Brown?
- 5 A It was in the book.
- 6 Q When you formed the team IMO Major Taylor, just
7 mechanically, what do you have to do to form a
8 team? Do you have to create an entity or do you
9 just file papers and say, "This is our name"?
- 10 A File papers with the university, "This is what
11 our name is going to be." It's almost like
12 forming an intramural club at any college.
- 13 Q Just some forms, submit them, "This is our
14 name"?
- 15 A Nothing major.
- 16 Q No pun intended?
- 17 A No pun intended.
- 18 Q Apart from fundraising for the team, selling
19 shirts, getting your sponsor, when was the first
20 time did you anything additional in using the
21 Major Taylor team in terms of products or
22 services or anything like that?
- 23 A In terms of specifically products or services,
24 or activity in general?
- 25 Q We'll do it one at a time. When is the first

1 time you sold any products using a Major Taylor
2 name beyond shirts for the team?

3 A Not really sure of the question. When you say
4 "beyond shirts"?

5 Q You mentioned -- I think I understood you to say
6 that for the racing team back in 1991, you sold
7 some shirts?

8 A Sure.

9 Q Shirts with your logo on it, things like that?

10 A Sure.

11 Q And then the funds you'd raise, you'd use to
12 help pay team expenses, things like that?

13 A Exactly.

14 Q When was the first time you or any of your
15 entities sold anything beyond shirts using the
16 Major Taylor?

17 A Anything that did not involve T-shirts?

18 Q Yes.

19 A Not including T-shirts, that would be 2003.

20 Q What did you sell then?

21 A 2003 we sold bicycles.

22 Q Was there some agreement made with some
23 manufacturer of bicycles?

24 A Agreement was made with Cannondale,
25 C-A-N-N-O-N-D-A-L-E, Bicycle Corporation.

1 Q Who made the agreement with Cannondale?

2 A I did.

3 Q When you made it, did you make it individually
4 or using the LLC that you referred to before?

5 A Well, at the time Major Taylor Sports Marketing
6 did not exist.

7 Q Okay.

8 A This agreement was made in 2002.

9 Q Okay.

10 A So at the time it was made with me as an
11 individual. Let me think here, let me think
12 about it. Well, it was made 2002 or 2003, I
13 can't remember, but somewhere 2002 or 2003.

14 Q But whenever it was, your LLC did not exist
15 then?

16 A Right, so it was made with me individually.

17 Q Where is Cannondale located?

18 A Cannondale is in Connecticut.

19 Q As far as you know, is it still around?

20 A Yeah. Cannondale is one of the leading bike
21 manufacturers in the United States, number two
22 or three, I believe. Have a Tour de France
23 team, the whole nine yards.

24 Q Apart from the LLC you mentioned, have you ever
25 previously formed any different entity or

1 additional entity that no longer exists? I know
2 we dealt with the LLC and we dealt with the
3 production company. Is there any other legal
4 entity that ever was formed, even if it no
5 longer exists, that you were a whole or a part
6 owner and have anything to do with Major Taylor?

7 A Yeah, that would be the Major Taylor Foundation.

8 THE WITNESS: I need to take a break and
9 use the restroom.

10 (A recess was taken.)

11 BY MR. BURSİK:

12 Q You had mentioned that there had once been a
13 Major Taylor Foundation that was set up. In
14 what year was that set up?

15 A 2000.

16 Q What was your role in setting up that
17 foundation?

18 A I was the president of that foundation.

19 Q Who else participated in that foundation?

20 A The foundation had a board, Greg Taylor,
21 Frank -- T-A-Y-L-O-R, no relation to Major
22 Taylor; Frank Motley, M-O-T-L-E-Y, really were
23 the two main ones.

24 Q Does the foundation still exist or was it ended
25 at some point?

1 A Still exists.

2 Q Are you still a participant in the foundation?

3 A Yes.

4 Q Are you still the president?

5 A Yes.

6 Q Since it was formed in 2000, has the foundation
7 ever owned any Major Taylor trademarks?

8 A No, the foundation does not own Major Taylor
9 trademarks.

10 Q Has the foundation since it was formed ever been
11 involved in selling any Major Taylor product or
12 service?

13 A No, foundation does not sell products or
14 services.

15 Q So it's like a civic association?

16 A Yeah. It's a scholarship organization.

17 Q Apart from the foundation, apart from the LLC,
18 the production company, any other entities
19 you've ever been involved in that had anything
20 to do with Major Taylor?

21 A No.

22 MR. BURSİK: I'll mark a document as P2
23 which was downloaded from the trademark website.

24 (Plaintiff's Deposition Exhibit No. 2
25 marked for identification.)

1 Q I'll show you a document that's marked as P2 and
2 ask you if that's your signature on the first
3 page -- a copy of your signature.

4 A Yes, yes.

5 Q On the third page, is that a copy of your
6 application that you submitted to the trademark
7 office back in 2000?

8 A Yes, it appears to be.

9 Q The next page, the fourth page, is that a copy
10 of your signature?

11 A Yes, appears to be.

12 Q This is all just a premise, I want to ask you a
13 question really about the last page. The last
14 page is a copy of a drawing of your trademark
15 you were using at that time and submitted in
16 conjunction with your application?

17 A At the time, yes.

18 Q Now, when you made an agreement with Cannondale
19 bikes, how did that first come about; did they
20 contact you, did you contact them, or how did
21 they each know about you or you know about them?

22 A I was contacted by Joshua Weir.

23 Q J-O-S-H-U-A?

24 A Yes.

25 Q W- --

1 A -- E-I-R.

2 Q Okay.

3 A That he had been in Portland, Oregon, and there
4 were some reps from Cannondale out there
5 discussing the idea of a Major Taylor bicycle.

6 Q How did he come upon your name? Who put you in
7 touch?

8 A Joshua Weir is one of the scholarship recipients
9 of the Major Taylor Foundation, he was a member
10 of Team Major Taylor Cycling at Indiana
11 University.

12 Q Okay.

13 A I was wondering if I might have a word with
14 Cliff.

15 Q Sure could.

16 (A recess was taken.)

17 BY MR. BURSIK:

18 Q Following your speaking with Mr. Weir, you had
19 discussions with people from Cannondale bikes;
20 is that correct?

21 A Yes -- once I heard about this, I, you know,
22 called Cannondale bikes and spoke to -- you
23 know, made some general inquiries about a Major
24 Taylor bicycle and was put in contact with the
25 then-owner of Cannondale Bicycles, Scott

- 1 Montgomery.
- 2 Q What year would that be when you contacted
- 3 Cannondale bike?
- 4 A 2002 or 2003, in that range.
- 5 Q Ultimately was there some written agreement made
- 6 between you and Cannondale bike?
- 7 A Yes. A licensing agreement.
- 8 Q And did Cannondale bike pay money to you for the
- 9 license?
- 10 A Yeah.
- 11 Q Did you ever see any Cannondale bikes that had
- 12 the Major Taylor name on them?
- 13 A Yes. Still see them today.
- 14 Q How are they put on it? Do they just have the
- 15 name or do they have this exact picture like
- 16 this? How does it appear on a bike?
- 17 A They have the team -- the team name and our new
- 18 logo.
- 19 Q So the Cannondale bike says, "Team Major
- 20 Taylor"?
- 21 A It says, "Team Major Taylor Cycling."
- 22 Q You mentioned a new logo. When was a new logo
- 23 adopted? Does that mean a logo that's different
- 24 from what appears on P2?
- 25 A That logo we started using in 2003.

- 1 Q By "that," you mean the new logo?
- 2 A The new logo, yes.
- 3 Q What does it look like, if you could just
4 describe it?
- 5 A It's a -- it's the letters TMTC, for Team Major
6 Taylor Cycling, skewed to look like a cyclist.
- 7 Q Now, when did you first think about applying to
8 register the Major Taylor name as a trademark?
- 9 A Probably in 1999, 2000, in that range. As far
10 as a trademark goes?
- 11 Q Yes.
- 12 A Probably '99, 2000.
- 13 Q Now, prior to 1999, apart from what you had read
14 in the book by Mr. Ritchie, were you aware of
15 any other associations or groups or anybody else
16 using the Major Taylor name?
- 17 A I had heard of the Major Taylor Association.
- 18 Q When did you first hear about them?
- 19 A I think online on the internet.
- 20 Q What year would you estimate that was?
- 21 A Probably 2000, '99, 2000, in that range.
- 22 Q Prior to '99, had you heard of anybody using the
23 Major Taylor trademark?
- 24 A Prior to?
- 25 Q Yes.

1 A No.

2 Q How did you hear about the Major Taylor
3 Association?

4 A Just over the internet. Started doing research
5 on mostly internet based and pulled them up and
6 believe had had some contact with them at that
7 time.

8 Q What was the contact you had with them at that
9 time?

10 A Just kind of introducing myself and finding out
11 more about their organization. And from what I
12 understood was at the time, the primary goal of
13 that organization was to raise money for a
14 statue to be erected in Worcester,
15 Massachusetts, in honor of Major Taylor, and we
16 did whatever we could do to help them in that
17 goal.

18 Q Was a statue put up in Worcester?

19 A It's not up yet, but it has been sent for
20 casting, I believe. Like I said, we were trying
21 to do anything we could to help. What ended up
22 happening was one of our cyclists, Simean
23 Commissionong, which is commission with an I-N-G
24 at the end of it.

25 Q Commission, C-O-M-M-I-S-S-I-O-N-I-N-G?

- 1 A Right -- O-N-G, I'm sorry, at the end.
- 2 Q How do you spell Simean?
- 3 A S-I-M-E-A-N.
- 4 Q Okay.
- 5 A Was actually -- or is actually the body model
6 for that statue. So it's basically Simean's
7 head -- or Simean's body and Major Taylor's face
8 on that statue.
- 9 Q When did you first do any online searching on
10 the internet to see what is out there about
11 Major Taylor?
- 12 A Probably -- you know, now that I think about it,
13 probably 1995. My first internet-type access.
14 As a matter of fact, my first-ever email address
15 was majrtaylor@aol.com.
- 16 Q Spell that.
- 17 A M-A-J-R, Taylor, T-A-Y-L-O-R. They only let you
18 have so many letters at that time.
- 19 Q Right, I remember. Going back to -- you said
20 sometime in 1999 or 2000, you first thought
21 about registering the Major Taylor name.
- 22 A Sure.
- 23 Q What made you think it would be necessary to
24 register the Major Taylor name?
- 25 A As I mentioned before, I've been involved in

1 several businesses. I know for a fact that if
2 you're looking to do something with a business
3 at that time, I had learned that you --
4 basically I wanted to find out whom I would need
5 to get permission from. So I spent the time and
6 spent the money to research who owned the rights
7 to the name. And I did an exhaustive trademark
8 search. I think that search probably cost me a
9 thousand dollars which at the time -- still --
10 is a lot of money, you know. So I did a
11 trademark search, extensive.

12 Q What year was that?

13 A I'd probably say that would be '99, 2000, you
14 know, maybe as early as '98.

15 Q Okay.

16 A But in that general range.

17 Q 1998, 1999.

18 A Right.

19 Q I interrupted you. Go ahead.

20 A Did an extensive search. Not just an internet
21 search, but I actually had a booklet produced
22 searching anything that had "Major" or "Taylor"
23 or anything closely related, and it came back
24 that no one had the trademark for Major Taylor.
25 And so while I'm looking for who owns the

- 1 trademark to Major Taylor so that I could
2 inquire as to whose permission I would need to
3 use that trademark, it came back that no one
4 owned the trademark to Major Taylor.
- 5 Q Who did you contact to do the search for you?
- 6 A I hired a service.
- 7 Q A search service, trademark search service?
- 8 A Yes.
- 9 Q Do you remember what company you used?
- 10 A No, I don't remember.
- 11 Q Do you still have the search?
- 12 A I'm sure I have it somewhere.
- 13 Q Apart from having a trademark search done, at
14 any time did you contact any attorney to inquire
15 about the legality of trademarking the Major
16 Taylor name?
- 17 A No. I didn't really feel that there would be a
18 higher authority to contact about trademarking
19 the Major Taylor name other than U.S. Patent and
20 Trademark Office.
- 21 Q Now, prior to -- now, you first applied for a
22 trademark in October of 2000; correct?
- 23 A That is correct.
- 24 Q I'm just referring to your cover letter.
- 25 A Sure.

1 Q Prior to submitting that to the trademark office
2 in October of 2000, you had known from reading
3 Mr. Ritchie's book that there had been a
4 daughter of Major Taylor, correct, Sydney Brown?

5 A Sure.

6 Q Why didn't you contact Sydney Brown about
7 trademarking Major Taylor's name?

8 A Why didn't I contact Sydney Brown about
9 trademarking Major Taylor's name? Because
10 Sydney Brown didn't own the trademark to Major
11 Taylor's name.

12 Q You knew when you were submitting an application
13 for registration that the name was of a person
14 who had been a living person; correct?

15 A Right.

16 Q And you knew that that living person had had a
17 daughter, Sydney Brown?

18 A Yes.

19 Q Did you know at the time you submitted that
20 application what descendants at that point were
21 living or were not living of Major Taylor?

22 A I knew that Sydney Brown was living, but I also
23 knew that Sydney Brown -- Major Taylor died
24 completely estranged from the family.

25 You know, I was going back to a

1 conversation we were having about Cannondale. I
2 know for a fact that -- and I think it's common
3 knowledge that when Major Taylor died, he had no
4 contact whatsoever with his family. No contact
5 with his wife, no contact with his daughter, was
6 completely estranged. To the extent that when I
7 spoke with Cannondale, they had actually
8 mentioned, you know, that they had spoken with
9 members of -- or people that claimed they were
10 members of Major Taylor's lineage that did not
11 want to have anything to do with a Major Taylor
12 product of any kind.

13 Q Who told you that?

14 A Scott Montgomery. Scott Montgomery, Bill Cooper
15 who is a bike enthusiast from Amarillo, Texas.

16 Q I got the first name, Scott. I missed the
17 second one, sorry.

18 A Bill Cooper, Amarillo, Texas.

19 Q Now, at the time -- prior to October of 2000
20 when you submitted that trademark application,
21 you were aware that there were one or more than
22 one associations out there that used Major
23 Taylor for some civic association work; correct?

24 A Sure.

25 Q And prior to submitting the application, you

1 were aware that the velodrome had his name on
2 it?

3 A Prior to 2000?

4 Q Yes.

5 A I think by that time I became aware that the
6 velodrome was using that name, yes.

7 Q Had you ever spoken with anyone at the velodrome
8 about registering his name or using his name in
9 business, anything like that?

10 A No. And the reason is, as I stated before, you
11 know, the highest authority on -- you know, as
12 far as trademarks in this country that I am
13 aware of is the U.S. Patent and Trademark
14 Office. So it didn't make sense for me to go to
15 everyone underneath the highest authority making
16 inquiries for Major Taylor. What made the most
17 sense to me was to go straight to the source and
18 obtain whatever I could get, and that's what I
19 did.

20 Q You mentioned you did a trademark search, I
21 understand that, and you paid for that. Apart
22 from doing the trademark search -- strike that.

23 Apart from doing a trademark search, did
24 you ever speak with any trademark owner about
25 any aspect of the Major Taylor trademark?

- 1 A Just the trademark attorney at the U.S. Patent
2 and Trademark Office.
- 3 Q So you called the trademark attorney at the PTO?
- 4 A Yes.
- 5 Q What did you ask that person, and what did they
6 say to you?
- 7 A Just verifying information about, you know,
8 whether an individual was clarifying that an
9 individual had been deceased for X amount of
10 time, and we were trademarking the name of a
11 deceased individual.
- 12 Q Who did you speak to at the PTO, trademark
13 office?
- 14 A Zachary, Z-A-C-H-A-R-Y, Bello, B-E-L-L-O.
- 15 Q And when did you speak with Mr. Bello?
- 16 A I believe in 2001 started speaking with
17 Mr. Bello.
- 18 Q That was after you submitted your application
19 for register?
- 20 A Yeah. 'Cause he was the examining attorney
21 whose name came up.
- 22 Q Oh, he was the trademark examining attorney in
23 connection with your application?
- 24 A Yeah.
- 25 Q Okay, got it.

1 A So at some point, just to get clarification that
2 it was, you know, okay to trademark that name.
3 I wanted to be perfectly clear that this was a
4 deceased individual.

5 Q Apart from after you had submitted the
6 application, am I correct that the only step you
7 took to determine the propriety of trademarking
8 the name beforehand was doing your trademark
9 search?

10 A Prior to submitting the application?

11 Q Yes.

12 A Yeah. Did that -- online searches; and yes,
13 that's correct.

14 Q What contact -- I know you mentioned you've
15 never had any contact with Sydney Brown. What
16 contact have you had with any other Major Taylor
17 descendant or family member?

18 A Well, let's see here. Going to have to use the
19 restroom again.

20 Q That's okay.

21 A Too much coffee.

22 (A recess was taken.)

23 BY MR. BURSIK:

24 Q Courtney, am I correct, you are not a blood
25 relation to any Major Taylor family member?

1 A No. And you were asking me a question when we
2 interrupted before also. I want to make sure I
3 answer that.

4 Q Do you remember that?

5 MR. BROWNING: What contact with any other
6 Major Taylor relatives other than Sydney Brown.

7 A I did not initiate any contacts with anyone.
8 However, I did receive an email -- I take that
9 back, I take that back. During the course of
10 my -- during the course of establishing Team
11 Major Taylor, I wanted to do something to kind
12 of give back, and I had sent out a couple of
13 emails to, I want to say -- what was his name?
14 I want to say it's Dallas Brown.

15 Q Sydney's son, Karen's father?

16 A Right, was, I believe, a general in the United
17 States Army. Trying to get some response so
18 that, you know -- I had a few ideas. One was
19 setting up a scholarship fund for descendants of
20 the family or setting up -- you know, just
21 something to give back. I just wanted to kind
22 of hash around ideas. But I never received any
23 response back.

24 I did get an email from Karen Brown Donovan
25 basically stating, and I'm paraphrasing, she has

1 heard about me for several years in connection
2 with Major Taylor and she wanted to introduce
3 herself, and she was just trying to get ahold of
4 the people that were working with Major Taylor.

5 And this was maybe a year, year and a half ago.

6 Q How did you find where to contact Dallas Brown?

7 A I think I looked it up on the internet.

8 Q I know you've had no conversations with Sydney;
9 correct?

10 A Right.

11 Q Apart from your email to Dallas Brown, you had
12 no other contact with him?

13 A No.

14 Q You mentioned Karen sent an email to you. What
15 other contacts, verbal or written, did you have
16 with her?

17 A I got a -- I think -- I responded to Karen's
18 email and let her know that I was interested in
19 speaking with her. I believe I left my phone
20 number for her to give me a call, which she did
21 back in, I want to say, October of 2006. We had
22 a very cordial conversation regarding, you know,
23 the work that I had done with Major Taylor and
24 things of that nature.

25 At that time, she had mentioned that -- at

1 that time she had mentioned that she had been in
2 contact -- I remember what it is now. When I
3 initially heard from Karen Brown Donovan, I
4 responded to her because I wanted to know for
5 the sake of the project that I was doing with
6 Nike whether or not she had access to any
7 imagery.

8 Q Like pictures of her great-grandfather?

9 A Pictures. I didn't really get that response
10 over the internet about that. But when I spoke
11 with her, I inquired about imagery that she had.
12 And she had made mention at that time, because
13 what I was trying to do, I was trying to put
14 Karen in contact with some marketing people
15 from -- from Nike in terms of imagery. Because
16 at that time I had a signed contract with Nike
17 regarding the Major Taylor -- Major Taylor
18 trademark.

19 So when I spoke with Karen Brown Donovan,
20 she mentioned that she had been working in some
21 capacity with Nike, and I said, "Well, that was
22 because I gave them your information as regards
23 to imagery." And she also made the statement
24 that she had, I guess, art sketches for product
25 from Nike.

- 1 Q Apart from Cannondale bike company and Nike,
2 have you entered into any kind of a license
3 agreement with any other company?
- 4 A No.
- 5 Q Is the agreement with Nike with you individually
6 or with your company?
- 7 A With me individually.
- 8 Q Was Nike paid anything pursuant to that
9 agreement?
- 10 A Not yet.
- 11 Q Now, I asked you before, and I understand you've
12 never requested permission from Sydney Brown
13 about Major Taylor usage. Have you ever
14 requested permission from any Major Taylor
15 family member about the use of the Major Taylor
16 name?
- 17 A No. And if I'm the registered trademark owner
18 of the name, there really would, in my mind, be
19 no reason for me to ask permission for a
20 trademark I already own.
- 21 Q In what year was your Major Taylor trademark
22 first actually used with any kind of bicycle
23 product?
- 24 A Are you talking about T-shirts?
- 25 Q Let's say bicycles themselves, actual bicycles.

- 1 A 2003.
- 2 Q How about bicycle equipment?
- 3 A 2003.
- 4 Q T-shirts?
- 5 A '91.
- 6 Q What about shoes?
- 7 A 2005.
- 8 Q Is there any other clothing besides T-shirts
9 it's been used with?
- 10 A Shoes.
- 11 Q Shoes, T-shirts. Anything else?
- 12 A Nothing commercially.
- 13 Q Apart from the Major Taylor --
14 How many applications have you submitted in
15 total to register a Major Taylor trademark?
- 16 A Three.
- 17 Q Two were successful, one is abandoned or no
18 longer pending?
- 19 A Right.
- 20 Q Apart from Major Taylor trademarks, have you
21 ever applied to register any other trademarks?
- 22 A Yes.
- 23 Q What are they?
- 24 A Let's see. The ones I'm sure of, Woodland
25 Mortgage with the State of Indiana in 1998.

1 That is to protect the name of my mortgage
2 company here in Indiana. Pawscriptions, P-A-W
3 scriptions, like prescriptions.

4 Q For animals?

5 A It's actually an idea for a line of pet treats
6 that you can insert medications into.

7 And then lastly, and I'm not sure if we --
8 but the last one was Haagen-Pawz, which is like
9 Haagen-Dazs, but it is a line of a variety of
10 flavored dog and cat ice cream.

11 Q How did you spell that or how do you spell that?

12 A It's just like Haagen-Dazs, the ice cream, take
13 out the D-A-Z and put in P-A-W-Z, Haagen-Pawz.

14 Q H-A-A-G-E-N dash; do you use a dash?

15 A Dash, P-A-W-Z, Haagen-Pawz.

16 Q And that may be, maybe not --

17 A I'm not sure where that is right now because
18 I've had an assistant working on that.

19 Q Have you ever had any connection with Major
20 Taylor himself? I know he's deceased, but in
21 any way, shape or form, have you had any
22 connection with him or anything about his life
23 or anything like that?

24 A When you say "connection," I mean, I own a team
25 that uses that name.

- 1 Q Right.
- 2 A And I own the trademark to that name, so I would
3 say there's a connection there, certainly. And
4 I would say certainly anyone in this modern age
5 that does research on Major Taylor is invariably
6 going to come across me.
- 7 Q Would you agree that when someone sees your
8 trademark, they would conversely conclude that
9 you or your group has some connection with them?
- 10 A They would have to.
- 11 Q So far some shirts have actually been sold with
12 the Major Taylor trademark?
- 13 A Right.
- 14 Q Have some shoes actually been sold?
- 15 A Yes.
- 16 Q Is it through Nike or is it through some other
17 company?
- 18 A Nike.
- 19 Q Have you actually seen a shoe with like a Major
20 Taylor name on it?
- 21 A Yes, four of them.
- 22 Q Four different kinds -- I mean, four different
23 styles, I guess, is the best way to say it?
- 24 A Four different styles of shoes which I'm sure
25 you're aware of.

1 Q Now, does Nike use, in these four different
2 styles, your old brand, your new brand, both, or
3 just the name without --

4 A I have a trademark on the name, Major Taylor.

5 Q Just the words, Major Taylor?

6 A Not only the words, but this logo also
7 (indicating).

8 Q I was with you until you finished that. That
9 confused me. When you said you have a trademark
10 just on the name, you mean just the word
11 components without any other visual component to
12 it?

13 A The word component.

14 Q Is that a U.S. trademark?

15 A Yes.

16 Q Okay. We've seen this one that's been marked as
17 P2. And then I have a second one. I've seen
18 the second one now which is the trademark for
19 financial services and things like that?

20 A Right.

21 Q This is your second trademark.

22 A Right.

23 Q Now, the third trademark that you're referring
24 to, is that the one you're talking about that's
25 just the name?

1 A No.

2 Q What is the one you're referring to that's just
3 the words "Major Taylor"?

4 A I say just the words "Major Taylor," what I'm
5 referring to is if you punch up a search for the
6 words "Major" and "Taylor," you are going to
7 come up with our registration.

8 Q Oh, okay. I'll narrow my question, then.

9 Have you applied for registration, for any
10 other registrations, beyond these two that were
11 issued and the one that was abandoned?

12 A No.

13 Q All right, I understand what you mean. Am I
14 correct, you have not applied to register just
15 the words "Major" and "Taylor" with no other
16 visual things attached to it; am I correct on
17 that?

18 A It is my belief I've registered for the words
19 "Major Taylor" and this particular art.

20 Q That's pending now?

21 A No. That is registered now.

22 Q So you think you have three -- these are two
23 separate ones here. Do you have a third --

24 A No.

25 MR. BROWNING: I think what he's trying to

1 say is the two registrations that are on the
2 table, the only words in them are "Major
3 Taylor."

4 Q Is that what you're trying to say?

5 A Yes.

6 Q Okay, got it.

7 Does anybody else sell shoes that you're
8 aware of with Major Taylor's name on them apart
9 from Nike?

10 A Not that I have seen. I have heard but have not
11 yet been able to confirm that Puma had an
12 interest in Major Taylor.

13 Q Have you heard that they actually are ready to
14 sell a shoe --

15 A I can neither confirm nor deny.

16 Q Apart from shirts and shoes -- you may have
17 answered this. I just forget. Did you say any
18 other type of apparel or anything has been sold
19 with the Major Taylor trademark?

20 A By us?

21 Q Yes, by you or any of your entities.

22 A Apparel, no.

23 Q Clothing or anything like that.

24 A No. We've sold, you know, T-shirts, key chains,
25 posters, Nike --

- 1 Q What about hats?
- 2 A We've sold some hats. Nike has sold shoes,
3 Cannondale has sold bikes.
- 4 Q Did you attend the opening of the velodrome here
5 in Indianapolis in 1982?
- 6 A I would have been a sophomore in high school in
7 New York then. No.
- 8 Q Okay. Have you ever attended a Major Taylor
9 exhibit at the Indiana State Museum?
- 10 A Not only did I attend an exhibit at the Indiana
11 State Museum; we have been the, I guess,
12 honorary speakers for everything that the museum
13 has done for Major Taylor since 2003.
- 14 Q So you yourself have spoken at the museum?
- 15 A Every year.
- 16 Q Did you happen to see any of the television
17 coverage of the 1996 Olympics in Atlanta which
18 included a Greg Gumbal interview with Sydney
19 Brown about Major Taylor?
- 20 A No.
- 21 Q Have you ever subscribed to any cycling
22 magazines?
- 23 A Yes.
- 24 Q Which cycling magazines?
- 25 A Bicycling magazine.

1 Q It's just called "Bicycling"?

2 A Uh-hum.

3 Q Anything else?

4 A Road magazine.

5 Q How long have you been a subscriber?

6 A Really since 2003.

7 Q Did you ever see the television movie Tracks of
8 Glory, the Disney Channel movie?

9 A Yes.

10 Q I think that was back in the early 1990s it was
11 on?

12 A Right.

13 Q Were you aware that Dallas Brown was also an
14 alumnus of Indiana University?

15 A No.

16 (Plaintiff's Deposition Exhibit No. 3
17 marked for identification.)

18 Q I'll show you a document marked P3. I just ask
19 you if you can identify; is that your signature?

20 A Yes.

21 MR. BURSİK: We'll mark this document P4.

22 (Plaintiff's Deposition Exhibit No. 4
23 marked for identification.)

24 Q On the second page I just ask you, is that your
25 signature?

1 A Yes.

2 MR. BURSİK: Mark this document P5.

3 (Plaintiff's Deposition Exhibit No. 5

4 marked for identification.)

5 Q I'll show you this document and just ask you, is

6 that like a photocopy of an appearance of what

7 one of your shirts looks like that you've sold?

8 A True.

9 MR. BURSİK: Mark this document P6.

10 (Plaintiff's Deposition Exhibit No. 6

11 marked for identification.)

12 Q I'll show you a document marked P6 and ask you,

13 have you ever heard of the Major Taylor

14 Association, Inc.?

15 A Yes.

16 Q When did you first hear of them?

17 A '99, 2000, in that range, when I was doing

18 internet research on Major Taylor.

19 MR. BURSİK: Mark this P7.

20 (Plaintiff's Deposition Exhibit No. 7

21 marked for identification.)

22 Q I'll show you a document marked P7 and ask if

23 you've ever heard of the Major Taylor Society.

24 A Yes, I have.

25 Q When did you first hear about that?

1 A Right around the same time, '99, 2000.

2 MR. BURSİK: Mark this it as P8.

3 (Plaintiff's Deposition Exhibit No. 8

4 marked for identification.)

5 Q I'll show you a document marked P8 and ask you

6 if that's a couple of pages from your website.

7 A It is.

8 MR. BROWNING: Take a look at both pages.

9 A Yeah, yes.

10 MR. BURSİK: Mark this as P9.

11 (Plaintiff's Deposition Exhibit No. 9

12 marked for identification.)

13 Q I show you this document marked as P9 and ask

14 you to look at that. Is that also additional

15 pages from your website?

16 A Yes, it is.

17 MR. BURSİK: That's it. Thank you very

18 much.

19 Thank you very much for your hospitality.

20 MR. BROWNING: I have one clarification.

21 The U.S. Trademark Trial and Appeal Board is in

22 Alexandria, Virginia, now.

23 MR. BURSİK: Very good point.

24

25

1 STATE OF INDIANA)
2) SS:
3 COUNTY OF HAMILTON)

4

4 I, Janine A. Ferren, RPR, CRR, CSR
5 No. 93-R-1028, a Notary Public in and for the
6 County of Hamilton, State of Indiana, at large, do
7 hereby certify that COURTNEY L. BISHOP, the
8 deponent herein, was by me first duly sworn to tell
9 the truth, the whole truth, and nothing but the
10 truth in the aforementioned matter;

11 That the foregoing deposition was taken on
12 behalf of the Petitioner at the offices of Krieg
13 DeVault LLP, 2800 One Indiana Square, Indianapolis,
14 Marion County, Indiana, on the 21st day of January,
15 2008, at 10:00 a.m., pursuant to the Rules of the
16 United States Patent and Trademark Office;

17 That said deposition was taken down in
18 stenograph notes and afterwards reduced to
19 typewriting under my direction, and that the
20 typewritten transcript is a true record of the
21 testimony given by the said deponent; and that
22 signature was requested by the deponent and all
23 parties present;

24 That the parties were represented by their
25 counsel as aforementioned.

